

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
STATESBORO DIVISION**

MANVESTER EVANS, III,

Petitioner,

v.

WARDEN TIMOTHY BOWEN,

Respondent.

CIVIL ACTION NO.: 6:20-cv-121

**ORDER**

Presently before the Court are Petitioner Manvester Evans' ("Evans") Objections to the Magistrate Judge's Report and Recommendation. Docs. 4, 5. After an independent and de novo review of the entire record, the Court **OVERRULES** Evans' Objections and **ADOPTS** the Report and Recommendation as the opinion of the Court.

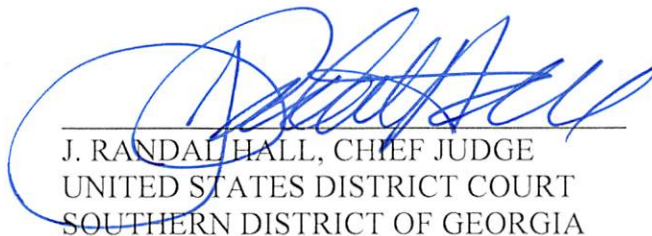
The Magistrate Judge recommended the Court dismiss Evans' 28 U.S.C. § 2254 Petition as being an unauthorized second or successive federal petition. Doc. 4. In his Objections, Evans asserts his trial counsel did not inform him he could file a direct appeal, nor did his counsel file an appeal or post-conviction remedy on his behalf. Doc. 5 at 1. In addition, Evans states the Attorney General for the State of Georgia determined Evans should be allowed to file an appeal. Id. Evans has attached a copy of the brief the Attorney General submitted to the Supreme Court of Georgia on September 23, 2022, wherein the Attorney General stated Evans' case should be remanded to the trial court "for a hearing" to determine whether Evans "was denied a direct appeal in 2004 due to ineffective assistance of counsel." Id. at 12.

Even if the Georgia Supreme Court remanded Evans' case to the trial court, there is nothing in Evans' Objections which is responsive to the Magistrate Judge's Report and Recommendation.

As noted, the Magistrate Judge concluded Evans' 28 U.S.C. § 2254 Petition is an unauthorized second or successive federal petition. Doc. 4. According to Evans, he submitted an application to the Eleventh Circuit Court of Appeals seeking permission to file a second or successive federal petition but had not received a ruling at the time he filed his Petition and a letter to this Court. Id. at 2 (citing Doc. 3). The Magistrate Judge did not discuss Evans' direct appeal, as it was not relevant to whether Evans could pursue his § 2254 Petition in this Court without having received authorization to do so.

The Court **OVERRULES** Evans' Objections and **CONCURS** with the Magistrate Judge's Report and Recommendation. Thus, after an independent and de novo review, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court, **DISMISSES** Evans's § 2254 Petition, and **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal. The Court also **DENIES** Evans *in forma pauperis* status on appeal and a Certificate of Appealability.

**SO ORDERED**, this 14<sup>th</sup> day of April, 2022.



J. RANDAL HALL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA